APPROVAL OF CONSENT AGENDA

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Giovanni Moss, Director, Housing and Community Development,

954-797-1226

PREPARED BY: Burton Spiwak, Programs Specialist, Housing and Community

Development

SUBJECT: Resolution authorizing the Mayor to execute a Service Provider

Agreement with North American Title Company for Title and Closing Services

AFFECTED DISTRICT: Town Wide

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A SERVICE PROVIDER AGREEMENT WITH NORTH AMERICAN TITLE COMPANY TO PROVIDE TITLE AND CLOSING SERVICES UNDER THE TOWN'S NEIGHBORHOOD STABILIZATION PROGRAM (NSP) AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: On April 1, 2009, the Town Council approved Resolution R-2009-71 authorizing the Mayor to execute and submit an application in the amount of \$2,316,292 and Housing Assistance Plan to the State Department of Community Affairs (DCA) for the Neighborhood Stabilization Program. The budget amendment was approved by Ordinance 2009-13 on May 20, 2009, which approved the funding for the NSP Program. On November 5, 2009, an advertisement requesting bids for a NSP Title and Closing Services provider was published in the Sun-Sentinel Newspaper and on December 11, 2009, the Town's NSP Consultant recommended the selection of North American Title Company as the firm submitting the lowest bid to provide mold inspection services. The Selection Committee has concurred with the Town's NSP Consultant in the selection of North American Title Company. By Resolution R-2010-11, approved on January 20, 2010, the Town Council authorized the Town Administrator or his designee to negotiate an agreement with North American Title Company. An agreement has been negotiated between the Town of Davie and North American Title Company at a fee which is more fully described in Exhibit B of the agreement to provide mold inspection services.

PREVIOUS ACTIONS: Resolution R-2009-71 approved on April 1, 2009 authorizing the Mayor to execute an application and Housing Assistance Plan requesting \$2,316,292 in NSP funds; Ordinance 2009-13, approved on May 20, 2009 approved the budget amendment providing the funding for the NSP Program; Resolution R-2010-9, approved January 20, 2010 authorized the Town Administrator or his designee to negotiate an agreement between the Town and North American Title Company.

CONCURRENCES:

FISCAL IMPACT: Yes

Has request been budgeted? Yes

If yes, expected cost: See Exhibit B of agreement

Account name and number: Contractual Services - 011-1607-554.03-06

If no, amount needed: \$

What account name and number will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S): Motion to approve resolution

Attachment(s): Resolution, Title and Closing Services Agreement

RESOLUTION

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A SERVICE PROVIDER AGREEMENT WITH NORTH AMERICAN TITLE COMPANY TO PROVIDE TITLE AND CLOSING SERVICES UNDER THE TOWN'S NEIGHBORHOOD STABILIZATION PROGRAM (NSP) AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 1, 2009, by Resolution No. R-2009-71, the Davie Town Council authorized the Mayor to execute and submit an application in the amount of \$2,316,292 and Housing Assistance Plan to the State Department of Community Affairs (DCA) for the Neighborhood Stabilization Program; and

WHEREAS, on May 20, 2009, the Town Council approved a budget amendment by Ordinance 2009-13 which provided funding under the NSP Program; and

WHEREAS, on November 5, 2009, an advertisement requesting bids for an NSP Title and Closing Services provider was published in the Sun-Sentinel Newspaper; and

WHEREAS, on December 11, 2009, the Town's NSP Consultant recommended the selection of North American Title and Closing Services Company as the firm submitting the lowest bid to provide title and closing services; and

WHEREAS, the Selection Committee has concurred with the Town's NSP

Consultant in the selection of North American Title and Closing Services Company; and

WHEREAS, on January 20, 2010, by Resolution No. R-2010-11, the Town Council approved the selection of North American Title and Closing Services Company to provide title and closing services under the NSP Program and authorized the Town Administrator or his designee to negotiate an agreement; and

WHEREAS, an agreement between the Town and North American Title and Closing Services Company has been negotiated and the Town of Davie believes that such an agreement at a fee which is more fully described in Exhibit B of the agreement will be beneficial to all parties and will result in great benefit to the residents of the Town of Davie; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Mayor or her designee is hereby authorized to execute the Agreement between the Town of Davie and North American Title and Closing Services Company to provide title and closing services under the Town's Neighborhood Stabilization Program at a fee as set out above.

SECTION 2. This Resolution shall take effect immediately upon its passage and adoption.

DAVOE

2010

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MAYOR/COU	NCILMEMBER		
WITT OR COO	IVEIDIVIDEIV		
ATTEST:			
TOWN OF EDV			
TOWN CLERK			
APPROVED THIS	DAY OF	, 2010	

DACCED AND ADODTED THIS

AGREEMENT

THIS AC	SREEM	IENT	made	and enter	red into thi	s	day of	
,	2010	by	and	between	NORTH	AMERICA	AN TITLE	COMPANY,
hereinaf	ter call	ed the	e CO	NTRACTO	OR with a	DUNS nu	mber of 14	4113685 and
the TOV	VN OF	DAVII	E her	ein called t	the TOWN	l.		

WITNESSETH: That the TOWN and the CONTRACTOR for the consideration hereinafter named, agree as set forth below:

Article 1. SCOPE OF WORK

As per specifications of advertised and sealed bid in Town of Davie Bid #09-149, CONTRACTOR, as an independent contractor and not as an employee, shall furnish, for the sums as provided for in Article 4, all of the necessary labor, material, and equipment to perform the work described in accordance with the Contract Documents.

Article 2.	TIME OF COMPLETION
	_ Days from receipt by the CONTRACTOR of the Notice to Proceed.

Article 3. GENERAL

The CONTRACTOR hereby certifies that he has read every clause of the Contract Documents and that he has made such examination of the location of the proposed work as is necessary to understand fully the nature of the obligation herein made; and shall complete the same the time limit specified herein in accordance with the plans and specifications.

The TOWN and CONTRACTOR agree to maintain records, invoices, and payments for the work. CONTRACTOR acknowledges and agrees that all payment to be made under this contract is derived from Community Development Block Grant – Neighborhood Stabilization Program funds and CONTRACTOR shall execute a valid "Release of Liens" and agrees to look solely to the Town of Davie for payment for services hereunder. The foregoing provision shall be inserted into any contracts between the CONTRACTOR and any subcontractors, materialmen, laborers, and or suppliers under this contract. All work under this Contract shall be done to the satisfaction of the TOWN, who shall in all cases determine the amount, quality, fitness, and acceptability of the several kinds of work and materials which are to be paid for hereunder, and shall decide all questions which may arise as to fulfillment of the Contract on the part of the CONTRACTOR, and his decision thereon shall be final and conclusive; and such determination and decision, in case any question shall arise, shall be a condition precedent to the right of the CONTRACTOR to receive any money hereunder.

Any clause or section of this contract or specification which may for any reason be declared invalid by a court of competent jurisdiction, including appeal, if any,

may be eliminated therefrom; and the intent of this Contract and the remaining portion thereof will remain in full force and effect as though such invalid clause or section has not been incorporated therein.

Article 4. QUANTITIES AND PRICES

The TOWN shall pay the CONTRACTOR for all work included and completed in accordance with this Contract, based on the items of work set forth in the CONTRACTOR'S Bid Form and more particularly set out in Exhibit B of this agreement.

Article 5. ACCEPTANCE AND FINAL PAYMENT

When the work provided for under this contract has been completed, in accordance with the terms thereof, a lump sum payment request in the amount of such work shall be prepared by the CONTRACTOR, and filed with the TOWN within fifteen days after the date of completion. The lump sum payment request shall be accompanied by a Certificate of Acceptance issued by the TOWN stating that the work has been completed to its satisfaction, in compliance with the Contract. The Certificate of Acceptance shall not be issued until the final inspection has occurred. In accordance with the Local Government Prompt Payment Act, after receipt of the final acceptance by the TOWN, the TOWN shall make payment to the CONTRACTOR in the full amount. The acceptance by the CONTRACTOR of final payment shall be and shall operate as a release to the Town of Davie as TOWN, and also to the Owner of the subject property upon which the work was performed, from all claims and all liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with the work under this Contract and for every act and neglect of the TOWN and others relating to or arising out of the work. Any payment, however, final or otherwise, shall not release the CONTRACTOR or its sureties from any obligations under the Payment Bond and/or Performance Bond, if any.

Article 6. THE CONTRACT DOCUMENTS

The General Conditions, Special Conditions, Specifications, Bid Documents, Insurance Requirements (Exhibit A), Bonds, and the Drawings, together with this Agreement, form the Contract, and are fully a part of this Contract as if included herein.

Article 7. TERMINATION FOR CAUSE AND/OR CONVENIENCE

Termination (Cause and/or Convenience)

(a) This contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party, provided that no termination may be effected

- unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.
- (b) This contract may be terminated in whole or in part in writing by the local government for its convenience, provided that the other party is afforded the same notice and consultation opportunity specified in I(a) above.
- (c) If termination for default is effected by the local government, an equitable adjustment in the price for this contract shall be made, but (I) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the CONTRACTOR at the time of termination may be adjusted to cover any additional costs to the local government because of the CONTRACTOR's default.
- If termination for convenience is effected by the local government, the equitable adjustment shall include a reasonable profit for services or other work performed for which profit has not already been included in an invoice.
- For any termination, the equitable adjustment shall provide for payment to the CONTRACTOR for services rendered and expenses incurred prior to receipt of the notice of intent to terminate, in addition to termination settlement costs reasonably incurred by the CONTRACTOR relating to commitments (e.g., suppliers, subcontractors) which had become firm prior to receipt of the notice of intent to terminate.
- (d) Upon receipt of a termination action under paragraphs (a) or (b) above, the CONTRACTOR shall (1) promptly discontinue all affected work (unless the notice directs otherwise) and (2) deliver or otherwise make available to the local government all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by the CONTRACTOR in performing this contract, whether completed or in process.
- (e) Upon termination, the local government may take over the work and may award another party a contract to complete the work described in this contract.
- (f) If, after termination for failure of the CONTRACTOR to fulfill contractual obligations, it is determined that the CONTRACTOR had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the local

government. In such event, adjustment of the contract price shall be made as provided in paragraph (c) above.

Article 8. REMEDIES

Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the CONTRACTOR, arising out of or relating to this contract, or the breach of it, will be decided by arbitration if the parties mutually agree or in a Florida court of competent jurisdiction.

Article 9. ACCESS TO RECORDS

The local government, the Florida Department of Community Affairs, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

Article 10. RETENTION OF RECORDS

The CONTRACTOR shall retain all records relating to this contract for six (6) years after the Department of Community Affairs has accepted the final closeout documents for the grant from the local governments and all other pending matters are closed.

Article 11. ENVIRONMENTAL COMPLIANCE

If this contract exceeds \$100,000, the CONTRACTOR shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and U.S. Environmental Protection Agency regulations (40 C.F.R. Part 15). The CONTRACTOR shall include this clause in any subcontracts over \$100,000.

Article 12. ENERGY EFFICIENCY

The CONTRACTOR shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

Article 13. VENUE

This agreement shall be governed by the laws of the State of Florida. Venue for any lawsuit brought by either party against the other party or otherwise arising

out of this agreement shall be in Broward County, Florida, or in the event of federal jurisdiction, in the United States District Court for the Southern District of Florida.

Article 14. NOTICE

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following

FOR TOWN:

Giovanni Moss, Director Housing and Community Development 4700 Southwest 64th Avenue, Suite D Davie. Florida 33314

CONTRACTOR:

Beverly McReynolds, President 700 NW 107th Avenue, Suite 300 Miami, Florida 33172

Article 15. EXECUTION

This document shall be executed in three (3) counterparts, each of which shall be deemed to be an original.

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IN WITNESS WHEREOF, the TOWN OF DAVIE and CONTRACTOR have executed this agreement the day and year first above written.

TOWN OF DAVIE

ATTEST:

BY:

Mayor/Council Member

Russell Muniz, CRM, City Clerk

APPROVED AS TO FORM:

Town Attorney	
State of Florida	
County of Broward	
The Foregoing instrument was acknown Notary Public in and for the State of F, 2010 by Russell Mun Mayor, respectively.	•
	Notary Public, State of Florida
NOTARY PUBLIC	
SEAL OF OFFICE	Printed, typed or stamped name of Notary Public exactly as commissioned
dividuals who signed are personally kno	own: no identification produced.
COMPANY Witness	NORTH AMERICAN TITLE
villess	Ву:
	Print Name:
	Title:
ate of ounty of	
ublic of State of Florida, the foregoing ir	010, before me, the undersigned Notar nstrument was acknowledged by Beverl an Title Company, a Florida corporation

WITNESS my hand

Notary Public, State of Florida

Printed, typed or stamped name of Notary Public exactly as commissioned

Personally known to me or produced identification EXHIBIT A

Title and Closing Service Provider's Scope of Responsibilities:

The project will involve providing title searches, title insurance and closings for up to 18 single family residential detached homes, condominiums, townhomes and/or villas that are vacant and foreclosed.

Provide title searches, title insurance, and all closing services for foreclosed properties being acquired through the Town. Provide complete title and escrow services for property closings. On real estate parcels, conduct research that includes information such as ownership, assessed value, encumbrances, property characteristics, and property identification. All title searches that are requested by The Town of Davie shall be completed and submitted to the Town within seven (7) calendar days from the issuance of the "Notice to Proceed" for the title search. Title Insurance shall be issued within five (5) calendar days from The Town of Davie's initial "Notice to Proceed" with the issuance of title insurance on a specific property. All closings shall be scheduled within fifteen (15) calendar days from the request by The Town of Davie to schedule the closing.

EXHIBIT B

Cost of each Title and Closing Service to be Performed:

Contract Sum Per Title Search \$175.00 Contract Sum Per Closing cost \$195.00,

Contract Sum Per Title Insurance Policy \$5.75/\$1,000 on first \$100,000 and \$5.00/\$1,000 on the premium between \$100,001 to \$1,000,000